

## § 2634.909

confidential or public financial disclosure report filed under this part.

(b) *New entrants.* Each confidential financial disclosure report filed under § 2634.903(b) of this subpart shall include, on the standard form prescribed by the Office of Government Ethics and in accordance with instructions issued by the Office, a full and complete statement of the information required to be reported according to the provisions of this subpart for the preceding twelve months from the date of filing.

[57 FR 11826, Apr. 7, 1992, as amended at 71 FR 28239, May 16, 2006]

## § 2634.909 Procedures, penalties, and ethics agreements.

(a) The provisions of subpart F of this part govern the filing procedures and forms for, and the custody and review of, confidential disclosure reports filed under this subpart.

(b) For penalties and remedial action which apply in the event that the reporting individual fails to file, falsifies information, or files late with respect to confidential financial disclosure reports, see subpart G of this part.

(c) Subpart H of this part on ethics agreements applies to both the public and confidential reporting systems under this part.

## Subpart J—Certificates of Divestiture

SOURCE: 69 FR 44894, July 28, 2004, unless otherwise noted.

## § 2634.1001 Overview.

(a) *Scope.* 26 U.S.C. 1043 and the rules of this subpart allow an eligible person to defer paying capital gains tax on property sold to comply with conflict of interest requirements. To defer the gains, an eligible person must obtain a Certificate of Divestiture from the Director of the Office of Government Ethics before selling the property. This subpart describes the circumstances when an eligible person may obtain a Certificate of Divestiture and establishes the procedure that the Office of Government Ethics uses to issue Certificates of Divestiture.

(b) *Purpose.* The purpose of section 1043 and this subpart is to minimize the

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burden that would result from paying capital gains tax on the sale of assets to comply with conflict of interest requirements. Minimizing this burden aids in attracting and retaining highly qualified personnel in the executive branch and ensures the confidence of the public in the integrity of Government officials and decision-making processes.

## § 2634.1002 Role of the Internal Revenue Service.

The Internal Revenue Service (IRS) has jurisdiction over the tax aspects of a divestiture made pursuant to a Certificate of Divestiture. Eligible persons seeking to defer capital gains:

(a) Must follow IRS requirements for reporting dispositions of property and electing under section 1043 not to recognize capital gains; and

(b) Should consult a personal tax advisor or the IRS for guidance on these matters.

## § 2634.1003 Definitions.

For purposes of this subpart:

*Eligible person* means:

(1) Any officer or employee of the executive branch of the Federal Government, except a person who is a special Government employee as defined in 18 U.S.C. 202;

(2) The spouse or any minor or dependent child of the individual referred to in paragraph (1) of this definition; and

(3) Any trustee holding property in a trust in which an individual referred to in paragraph (1) or (2) of this definition has a beneficial interest in principal or income.

*Permitted property* means:

(1) An obligation of the United States; or

(2) A diversified investment fund. A diversified investment fund is a diversified mutual fund or diversified unit investment trust, as defined in 5 CFR 2640.102(a), (k) and (u);

(3) Provided, however, a permitted property cannot be any holding prohibited by statute, regulation, rule, or Executive order. As a result, requirements applicable to specific agencies and positions may limit an eligible person's choices of permitted property. An